

Town of Amherst
Zoning Board of Appeals
SPECIAL PERMIT

TOWN OF AMHERST, MA
HAMPSHIRE COUNTY
Received & Recorded

FEB 18, 2015

2:15 P.M.

By: [Signature] Attest: [Signature]

The Amherst Zoning Board of Appeals hereby grants a Special Permit, ZBA FY2015-00013, to Demolish and reconstruct a pre-existing detached garage which is non-conforming as to setback, at 61 Chestnut Street, (Map 11D, Parcel 55, R-G Zoning District), subject to the following conditions:

1. The detached garage shall be reconstructed in accordance with the following plans:
 - a. Located as shown on the survey prepared by Harold Eaton Associates, dated September 10, 2014. Said wall of the structure shall be 1.3 feet from the property line at the northwest corner and 3.4 feet from the property line at the southwest corner. The approval allows for an 8 inch overhang to extend beyond the wall.
 - b. Designed and built in accordance with the plans prepared by Bruce Coldham, FAIA, dated September 2014 with hand written annotations dated November 20, 2014.
2. Any substantial changes to the approved plans shall be submitted to the Zoning Board of Appeals for review at a public meeting. The purpose of the meeting shall be for the Board to determine if the changes are minor, or significant enough to require modification of the permit.
3. Any exterior lighting associated with the new garage shall be arranged or designed to be downcast.

Eric Beal

Eric Beal, Chairperson
Amherst Zoning Board of Appeals

(16)

February 18, 2015

DATE

Town of Amherst
Zoning Board of Appeals - Special Permit

DECISION

Applicant/Owner: Bruce Coldham, 155 Pine Street, Amherst, MA 01002

Date application filed with the Town Clerk: July 14, 2014

Nature of request: For a Special Permit to demolish and reconstruct a pre-existing detached garage which is non-conforming as to setback

Address: 61 Chestnut Street (Map 11D, Parcel 55, R-G Zoning District)

Legal notice: Published on September 24, 2014 and October 1, 2014 and sent to abutters on September 24, 2014

Board members: Eric Beal, Tom Ehrgood, Mark Parent

Staff members: Jeff Bagg, Senior Planner, Rob Morra, Building Commissioner

Submissions:

- Application form, filed with the Town Clerk on October 2, 2014
- Project Summary and proposed 10.38 findings prepared by the applicant
- Survey prepared by Harold Eaton Associates, dated September 10, 2014
- Site Plan and Elevations, prepared by Bruce Coldham FAIA, dated September 2014
- Town GIS map, dated November 20, 2014
- Email from Town Counsel, dated February 27, 2014

Public Hearing: October 9, 2014

The public hearing was rescheduled to November 20, 2014 to avoid a recognized religious holiday and a scheduling conflict with the applicant.

Site Visit: November 18, 2014

Eric Beal, Tom Ehrgood, and Mark Parent observed the property located on the south side of Chestnut Street, and the following:

- The exterior of the existing detached garage in a dilapidated condition. The approximate location of the west property line where the existing building is situated very close to the property line. The board observed the existing building wall and overhang to be replicated. The height of the building was noted.

Public Hearing: November 20, 2014

The applicant, Bruce Coldham, represented himself. He explained that he is an architect in Amherst and that this property was left to him and his wife. They intend to upgrade the existing single family residence and rent it with the possibility of their residing there in the future. The property contains an existing non-conforming garage.

As noted in the narrative, the detached garage is in poor condition and it cannot be salvaged. He noted that the Historical Commission reviewed the demolition request and voted to not issue any delay and would allow the structure to be demolished.

As noted on the survey, the garage is non-conforming to setbacks and the new structure would be built at the same setbacks. Specifically, as shown on the survey, the wall of the structure will be setback 1.3 feet from the property line at the northwest corner and 3.4 feet from the property line at the southwest corner. The survey also shows that the existing structure contains an overhand which extends beyond the wall and is currently 0.9 feet from the property line at the northwest corner and 2.8 feet from the property line at the southwest corner. Those setbacks will be maintained.

The Board discussed the height of the structure. Mr. Coldham stated that the height as shown on the survey is 12 feet. However, because of the compromised structure of the roof it is sagging substantially and the new structure would be slightly taller than the existing. The Board identified that the height of the new structure could be up to 13 feet. The plans were annotated to show this.

Mr. Beal asked whether there was any option that would locate the rebuilt garage in a more conforming location. Mr. Coldham stated that it was possible, but that his intent was to preserve the overall size and scale of the building and retain the location. He explained that the current location is straight in from Chestnut Street. Moving it would require it to be 10 feet from the property line and require changing the driveway location.

The Board finds under Section 9.22, the following:

9.22 - The Special Permit Granting Authority authorized to act under the provisions of Section 3.3 of this bylaw may, under a Special Permit, allow a non-conforming use of a building, structure or land to be changed to a specified use not substantially different in character or in its effect on the neighborhood or on property in the vicinity. Said Authority may also authorize, under a Special Permit, a non-conforming use of a building, structure, or land to be extended, or a non-conforming building to be structurally altered, enlarged or reconstructed; provided that the Authority finds that such alteration, enlargement, or reconstruction shall not be substantially more detrimental to the neighborhood than the existing non-conforming use or non-conforming building. The Board finds that the demolition and reconstruction of the existing detached garage is not substantially more detrimental to the neighborhood for the following reasons:

- The new structure will retain the same setbacks, will have the same footprint, and does not further encroach on the setback. The new structure will enhance the structures appearance in the neighborhood.
- The height of the new structure will be substantially similar to that of the existing structure.
- As shown the Town GIS map, there are several other properties in the neighborhood with similarly situated non-conforming garages. The Board noted that several properties in the neighborhood contain detached garages very close to property lines and that the setbacks are not out of character with other properties in the neighborhood.

Specific Findings:

The Board found under Section 10.38 of the Zoning Bylaw, Specific Findings required of all Special Permits, that:

10.380 & 10.381 - *The proposal is suitably located in the neighborhood in which it is proposed and/or the total Town, as deemed appropriate by the Special Permit Granting Authority; The proposal is compatible with existing Uses and other Uses permitted by right in the same District.* The proposal involves demolition and reconstruction of a detached garage with similar height and within the same footprint as the existing structure. The Town GIS map shows eight properties in the vicinity that contain detached structures with similar non-conforming setbacks.

10.382, 10.383 & 10.385 - *The proposal would not constitute a nuisance due to air and water pollution, flood, noise, odor, dust, vibration, lights, or visually offensive structures or site features; The proposal would not be a substantial inconvenience or hazard to abutters, vehicles or pedestrians; The proposal reasonably protects the adjoining premises against detrimental or offensive uses on the site, including air and water pollution, flood, noise, odor, dust, vibration, lights or visually offensive structures or site features.* The proposal will remove a dilapidated structure that may be visually offensive and hazardous. The new structure will be one foot taller but will otherwise occupy the same footprint as the existing structure thus not creating any additional or new impact on abutting properties. The proposal will maintain the single lane driveway and not require any substantial changes to access the building.

10.391 - *The proposal protects, to the extent feasible, unique or important natural, historic or scenic features.* The Board found that approval of the demolition by the Historical Commission as support for reconstruction of the new structure.

10.398 - *The proposal is in harmony with the general purpose and intent of this Bylaw, and the goals of the Master Plan.* The proposal provides for the removal of a dilapidated structure to be replaced with a similar sized structure of the same use. The Board finds that allowing the new structure to occupy the non-conforming setback "encourages the most appropriate use of land" in Amherst.

Zoning Board Decision

Mr. Beal MOVED to approve the application with conditions. Mr. Ehrgood seconded the motion.

For all of the reasons stated above, the Board VOTED unanimously to grant a Special Permit, ZBA FY2015-00013, to demolish and reconstruct a pre-existing detached garage which is non-conforming as to setback, at 61 Chestnut Street, (Map 11D, Parcel 55, R-G Zoning District), subject to conditions.

Eric Beal
ERIC BEAL

(JB)

Tom Ehrgood
TOM EHrgOOD

(JB)

Mark Parent
MARK PARENT

(JB)

FILED THIS _____ day of _____, 2015 at _____,
in the office of the Amherst Town Clerk _____.
TWENTY-DAY APPEAL period expires, _____ 2015.
NOTICE OF DECISION mailed this 19th day of February, 2015
to the attached list of addresses by Jeffrey R. Bogg, for the Board.
CERTIFICATE OF NO APPEAL issued this _____ day of _____, 2015.
NOTICE OF PERMIT or Variance filed this _____ day of _____, 2015,
in the Hampshire County Registry of Deeds.

THE COMMONWEALTH OF MASSACHUSETTS
AMHERST

City or Town
NOTICE OF SPECIAL PERMIT
Special Permit
(General Laws Chapter 40A)

Notice is hereby given that a Special Permit has been granted

To Bruce Coldham
Address 155 Pine Street
City or Town Amherst, MA 01002

Identify Land Affected: 61 Chestnut Street
(Map 11D, Parcel 55, R-G Zoning District)

By the **Town of Amherst Zoning Board of Appeals** affecting the rights of the owner
with respect to the use of the premises on

61 Chestnut Street Amherst
Street City or Town
The record of title standing in the name of
Mary Sayer
Name of Owner
Whose address is 155 Pine Street Amherst MA 01002
Street City or Town State Zip Code

By a deed duly recorded in the
Hampshire County Registry of Deeds: Book 7963 Page 19
or
Hampshire Registry District of the Land Court, Certificate No. _____,
Book _____, Page _____
The decision of said Board is on file, with the papers, in ZBA FY2015-00013
In the office of the Town Clerk Sandra J. Burgess

Certified this _____ day of _____

Board of Appeals:

Eric Beal (16) Chairman
(Board of Appeals)
Tom Ehrgood (16) Clerk
(Board of Appeals)

_____ at _____ o'clock and _____ minutes _____ m.
Received and entered with the Register of Deeds in the County of Hampshire
Book _____ Page _____

ATTEST

Register of Deeds
Notice to be recorded by Land Owner

**BOARD OF APPEALS
AMHERST, MASSACHUSETTS
RECORD OF APPEALS AND DECISION RENDERED**

Petition of Bruce Coldham

For For a Special Permit to demolish and reconstruct a pre-existing detached garage which is non-conforming as to setback.

On the premises of 61 Chestnut Street

At or on Map 11D, Parcel 55, R-G Zoning District

NOTICE of hearing as follows mailed (date) September 24, 2014
to attached list of addresses and published in the Daily Hampshire Gazette
dated September 24, 2014 and October 1, 2014

Hearing date and place October 9, 2014 and November 20, 2014 (Town Hall)

LEGAL NOTICE

The Amherst Zoning Board of Appeals will meet on Thursday, October 9, 2014, at 6:30 P.M. in the Town Room, Town Hall, to conduct the following business:

PUBLIC HEARING:
ZBA FY2015-00011 - Kilian O'Connell - For a Special Permit to extend, alter, and enlarge a pre-existing non-conforming, three family dwelling by adding two additional bedrooms per unit, under Section 9.22 of the Zoning Bylaw, at 257 Pelham Road (Map 15B, Parcel 45, R-N Zoning District)

ZBA FY2015-00012 - Knight Properties, LLC - For a Special Permit to extend and alter a pre-existing non-conforming two family dwelling by formalizing an existing third unit, under Section 9.22 of the Zoning Bylaw, at 186 College Street (14B, Parcel 152, R-G Zoning District)

ZBA FY2015-00013 - Bruce Coldham - For a Special Permit to demolish and reconstruct a pre-existing detached garage which is non-conforming as to setback, at 61 Chestnut Street (Map 11D, Parcel 55, R-G Zoning District)

**ERIC BEAL, CHAIR
AMHERST ZONING
BOARD OF APPEALS
September 24, October 1
2014**

SITTING BOARD and VOTE TAKEN:

To grant a Special Permit, ZBA FY2015-00013, to demolish and reconstruct a pre-existing detached garage which is non-conforming as to setback, at 61 Chestnut Street, subject to conditions.

Mark Parent - Yes Tom Ehrgood - Yes Eric Beal - Yes

DECISION: APPROVED with conditions

Town of Amherst Abutter List

Parcel ID	Parcel Address	Owner1	Owner2	Address	City/Zip
11D-27	31 CHESTNUT ST	CARR, ETHAN & ALLABACK, SARAH E		31 CHESTNUT ST	Amherst, MA 01002
11D-4	36 CHESTNUT ST	BOUTILIER, EMILY G & ROBERT K		36 CHESTNUT ST	AMHERST, MA 01002
11D-23	52 CHESTNUT ST	DALLMANN, ALAN	ARMSTRONG, ABIGAIL	52 CHESTNUT ST	AMHERST, MA 01002
11D-55	61 CHESTNUT ST	SAYER, MARY E		155 PINE ST	AMHERST, MA 01002
11D-56	63 CHESTNUT ST	PERKINS, MARGARET ANNE		63 CHESTNUT ST	AMHERST, MA 01002
11D-21	72 CHESTNUT ST	REBULA, NANCY M & ENZO		72 CHESTNUT ST	AMHERST, MA 01002
11D-1-58	75 CHESTNUT ST	LOWENSTEIN, SUSAN W		77 CHESTNUT ST	AMHERST, MA 01002
11D-238	76 CHESTNUT ST	MCDANIEL, MINA R & MUSSINAN, CYN	C/O KENDRICK PROPERTY MNGMT INC	1185 N PLEASANT ST	AMHERST, MA 01002
11D-2-58	77 CHESTNUT ST	LOWENSTEIN, SUSAN W		77 CHESTNUT ST	AMHERST, MA 01002
11D-57	83 CHESTNUT ST	LEDoux, PAMELA SWACK		83 CHESTNUT ST	AMHERST, MA 01002
11D-19	84 CHESTNUT ST	LEVIN, NAOMI GLENN & ET AL		297 WASHINGTON ST	GENEVA, NY 14456
11D-244	87 CHESTNUT ST	GUTIERREZ, JOHN PETER	GREENE-GUTIERREZ, CANDICE SUE	87 CHESTNUT ST	AMHERST, MA 01002
11D-236	COTTAGE ST	ZAK, JOHN M & RUTH S		54 GRANTWOOD DR	AMHERST, MA 01002
11D-48	59 COTTAGE ST	TALBOT, ANDREA & COOPER, DAN		59 COTTAGE ST	AMHERST, MA 01002

<i>Parcel ID</i>	<i>Parcel Address</i>	<i>Owner1</i>	<i>Owner2</i>	<i>Address</i>	<i>City/Zip</i>
11D-49	61 COTTAGE ST	ROSS, GARETH F & ET AL		61 COTTAGE ST	AMHERST, MA 01002
11D-50	63 COTTAGE ST	KURIAN, SUSAN E & IVANA		20 HAMPTON AVE APT 504	NORTHAMPTON, MA 01060
11D-32	66 COTTAGE ST	BERKMAN, LEONARD	BERKMAN, JOYCE A.	66 COTTAGE ST	AMHERST, MA 01002
11D-51	71 COTTAGE ST	SAULSBERRY, GAYLORD F	SAULSBERRY, JANET E	71 COTTAGE ST	AMHERST, MA 01002
11D-31	74 COTTAGE ST	COX, CHRISTOPH & WHALEN, MOLLY		26 SUNSET AVE	AMHERST, MA 01002
11D-52	77 COTTAGE ST	BRUCE, WALTER & EATON, DEBORAH CO TRUSTE		32 ROUND HILL RD	NORTHAMPTON, MA 01060
11D-53	81 COTTAGE ST	PAIGE, PHYLLIS C LIFE ESTATE		81 COTTAGE ST	AMHERST, MA 01002
11D-29	82 COTTAGE ST	ROSS, GARETH FIELDING & SARA JANE		82 COTTAGE ST	AMHERST, MA 01002
11D-28	90 COTTAGE ST	CHASE, LYNNE	MALONEY, JAMES A JR	427 BELCHERTOWN RD	AMHERST, MA 01002
11D-54	91 COTTAGE ST	LOWE, KAREN A	VAN CLEEF, TIMOTHY D	91 COTTAGE ST	AMHERST, MA 01002
11D-5	112 COTTAGE ST	MEADOWS, CRAIG E & PAMELA ARNOLD		112 COTTAGE ST	AMHERST, MA 01002
11D-6	46 EAMES AVE	ZUNIGA, XIMENA & MILDRED, JANE		46 EAMES AVE	AMHERST, MA 01002
11D-7	52 EAMES AVE	MALONE, MARGARET E		52 EAMES AVE	AMHERST, MA 01002
11D-22	53 EAMES AVE	RAJTER, SOPHIE P LIVING TRUST	RAJTER, SOPHIE P TRUSTEE	53 EAMES AVE	AMHERST, MA 01002
11D-274	64 EAMES AVE	MARSHALL, DOUGLAS S & SARAH A		64 EAMES AVE	Amherst, MA 01002

<i>Parcel ID</i>	<i>Parcel Address</i>	<i>Owner1</i>	<i>Owner2</i>	<i>Address</i>	<i>CityStZip</i>
11D-237	65 EAMES AVE	ROWELL, PETER J.	ROWELL, JEAN R.	16 SWEETMEADOW DR	EASTON, MA 02375
11D-20	71 EAMES AVE	HOWE, EDITH S & RALPH P		49 KESTREL LN	AMHERST, MA 01002
11D-81	MATTOON ST	AMHERST PELHAM REG SCHOOL DIST		21 MATTOON ST	AMHERST, MA 01002